



MEMORANDUM

*Tallahassee-Leon County
Planning Department*

DATE: October 19, 2005
TO: Parvez Alam, County Administrator
FROM: Wayne Tedder, Planning Department Director
SUBJECT: Fallschase Development Agreement (Draft Date 10/13/05)

The Planning Department has reviewed the proposed development agreement dated 10/13/05 and provides the following comments:

1. The first "whereas", pg. 1, should less and except the property not included in the agreement. Adding property to the agreement needs to follow applicable procedures for inclusion.
2. The second "whereas", pg. 1, should delete "...Property is designated pursuant to the County's Comprehensive Plan as Planned Unit Development District...." The property is designated as Mixed Use A and Residential Preservation in the Comprehensive Plan. Additionally, a portion of the property (eastern portion) does not appear to be zoned PUD. This area appears to be designated as R-3 on the official Zoning Atlas and will need to be rezoned so that it is included within the existing PUD. This additional area will be a major modification to the existing PUD.
3. The fourth "whereas", pg. 2, indicates that the Original PUD and DRI did not specify approval limits. This does not appear to be correct. The residential densities were identified and the office intensities (in terms of square feet) were identified. However, the commercial intensity was only identified in terms of acreage (not in terms of square feet). It is recommended that this section be revised to identify the approved limits (in terms of square feet) so that appropriate analysis can be concluded based on the Board approved limits.
4. The sixth "whereas", pg. 2 indicates that 18 acres added to the DRI/PUD will be designated for commercial uses. This area is not expressly indicated on the attached exhibits. A map of this area is needed in order for a final review to be completed. However, if the additional area is designated as commercial development and was previously designated (in the PUD/DRI) as a use other than commercial, then it would appear that this change is substantial in nature.
5. The seventh "whereas" appears to be incomplete. This clause should specifically state the total vested density and intensity for the existing PUD/DRI. It should be noted that the vesting substantially differs from the general intensities identified in the

PUD and DRI that was previously approved (See Table 1) as well as the proposed DA. Resolution of this issue will need to be determined by the Board.

6. The thirteenth "whereas" sets a process for establishing a conservation easement on a portion of the Southern Property, then transferring a portion of the property to public ownership. There appears to be no regulatory reason why the easement should be required prior to dedicating the property to the County so long as such dedications account for required green/open space and/or natural area.
7. Section 1. The DA states in part "... This agreement is not intended to, nor does it, approve or authorize commencement of any amount of development not previously approved by the County...." The DA as written, appears to provide substantial increases in commercial development from the previously approved DRI. It should be noted, however, that the residential and office components reflect a decrease in intensity and density from the previously approved PUD/DRI. Regardless, the character of the previously approved PUD/DRI will be substantially modified under the terms of the new agreement.
8. Section 3. The DA does not provide a map indicating the area that is not subject to the agreement. Additionally, counsel should verify that such excluded properties can be added into the DA at a later date if owned by the applicant and without public hearings as established in State and local laws.
9. Section 4. The proposed DA establishes new intensities that are not in accordance with the previously approved PUD/DRI. This section indicates that the proposed uses, densities and intensities are vested from consistency and concurrency of the provisions of the Comprehensive Plan and Land Development Regulations. State Statutes indicate that development agreements pursuant to Section 163.3227 and 163.3231 must be consistent with the Comprehensive Plan and land development regulations. It is unclear as to what parts of the DA, if any, should be subject to this statutory provision based on the existing and approved PUD/DRI. Staff will need a determination from the Board defining the limits of vested development prior to a final review by the Department. If it is determined that all proposed development is vested from all provisions of the Comprehensive Plan, then the Department's review is limited.
10. Section 4. The last sentence guaranteeing legal conforming status in perpetuity is inconsistent with Section 163.3233 that governs modifications of previously approved agreements. The DA will need to provide a statement consistent with Section 163.3233.
11. Section 5. This section refers to Section 380.061(19). The correct section is 380.06(19). This section indicates that the County agrees that the proposed changes do not constitute a change to the previously approved DRI/PUD or a substantial deviation as defined in Section 380.061(19) Florida Statutes. The proposed DA appears to propose substantial changes to the previously approved PUD/DRI. However, the Board may find that the proposed modifications, based on appropriate data, do not create any net additional impacts and/or any additional impacts are appropriately mitigated.
12. Section 6(a) & (b). See comment 6 above. There appears to be no reason a conservation easement needs to be placed on the portion of the Southern Property that

will be dedicated to the County. Additionally, an exhibit needs to be included in the DA that identifies the area/areas that will be dedicated to the County.

13. Section 6(c). This section allows water and sewer services within a conservation and possibly preservation features. It is unclear if this infrastructure will be owned and/or operated by a public entity. Allowance of infrastructure, other than public infrastructure, within conservation and preservation features that impact more than 5 percent of the feature, is inconsistent with Policy 1.3.7 of the Conservation Element of the Comprehensive Plan. If the infrastructure exists and was previously approved, then the use may be considered legally non-conforming and future expansions of the facilities may be prohibited. Typically, sewer services are provided under the roadway network. The Project is encouraged to provide all central water and sewer services within the roadway for all properties that front the Southern Property. The developer has indicated that this site will be served with central sewer and water by the City of Tallahassee. If the City will be the service provider, then all other mentioned methods of service should be removed from the DA. It should be noted that public services may obtain a "linear infrastructure variance" when impacting conservation and preservation features. However, this variance is not associated with serving new development where such development can be served without impacting the conservation and preservation features.
14. Section 6(d). See comments 6 and 12 above.
15. Section 7. See comments 3, 4, 7, 8, 9, 11, and 12. Additionally, the proposed concept plan does not identify the location of the proposed land uses, but rather a concept development plan. The DA needs to be amended to clearly identify the location of the proposed land use types. Secondly, it appears that the existing Fallschase Drive is being modified to terminate into a parking lot from both the north and south. This concept must be revised to provide clear access between the various land uses and the existing and proposed transportation networks. Once a land use map is provided, additional access and integration comments may be provided.
16. Section 8. The concept plan does not provide a location of the 1 acre of property to be dedicated to the County for public use. The concept plan shall be revised to clearly identify its location as it relates to the other proposed land uses and the transportation network. Once this location is determined, then staff can fully review this issue.
17. Section 9. This section proposes changes to the review and approval of the amendments to the PUD necessary to implement the proposed agreement. Specifically, the process eliminates the Planning Commission from reviewing the major modification to the PUD. In discussions with the County's counsel, it is the Department's understanding that this process will not be inconsistent with Florida Statutes pertaining to the rezoning review process.
18. Sections 9(a), (b), and (C). These sections state, in general, that the standards in the DA will prevail over the land development regulations if a conflict between the two arises. This provision is inconsistent with F.S. Section 163.3227 and 163.3231.
19. Section 10. See comment 18.
20. Section 13. See comment 18
21. Section 14. See comments 3, 4, 5, 7, 9, and 11.

22. Section 16. This section precludes an interconnection between the Weems Plantation subdivision and the DRI. Therefore, any residents in the Weems Plantation subdivision can only access the commercial services and places of employment by way of Weems Road and/ or Mahan Drive (a collector and arterial road respectively) and could unnecessarily reduce the capacities of these roads. Based on Comprehensive Plan policies that are directed to reduce transportation impacts to collector and arterial roadways, the Department recommends this provision be stricken from the agreement and that such interconnection be provided.
23. Section 17. It is unclear what kind of sewer treatment plant facilities are needed, where the proposed expansion of the sewage treatment plant will be located and the magnitude of impacts that could occur to adjoining properties. The DA needs to identify the anticipated facility expansion project, the location and provide assurances that potential negative impacts are contained on the site. Buffering standards around treatment facilities have been a longstanding community issue. If the City will be providing central sewer services, then references to the sewer treatment plant should be removed from the agreement.
24. Section 18. Abandonment of the Old Buck Lake Road segment should not be granted until such time as all needed right-of-way (and stormwater management area) to serve this development site is conveyed to the County and/or State.
25. Section 20. See comment 18. Additionally, this section does not distinguish setbacks between the residential and non-residential areas both within and adjacent to the Project. Certain setbacks may be necessary to ensure visual and other impacts are appropriately mitigated. These issues are more appropriately addressed in the PUD. A determination of consistency with the Comprehensive Plan and land development regulations will be needed as part of the PUD process. These standards should not be deemed final until such time as the PUD is completed and approved by the Board.
26. The Concept Plan, identified as Exhibit 1, does not provide clarity as to the location of the proposed land uses. This clarification is needed to address potential impacts to adjoining low-density residential areas as well as its integration with surrounding land uses.
27. The School Board has indicated that the proposed development will create capacity problems for the Leon County elementary schools' system in the subject school zone. If such capacity issues exist with no apparent resolution with future school site options identified by the School Board, then consideration should be given to the appropriateness of this site (or other mitigation options) to meet the additional school demands. Note: School concurrency for all jurisdictions is now required pursuant to the recently adopted Senate Bill 360 in which staff is currently working on implementation procedures and policies.
28. Exhibits B.4, B.5, and D indicate proposed residential development within an area identified as a potential floodplain. It is important to state that no detailed analysis has been completed to date that specifically identifies the exact location of the floodplain. However, best available data suggests that the 51' elevation contour is the elevation of the floodplain. In order to be consistent with the Comprehensive Plan, development is limited to 1 dwelling unit per 40 acres in that area designated as unaltered floodplain. Additional development may be permitted in areas designated

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Fallschase Development Agreement (Draft Date 10/13/05)

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as altered floodplain. Accordingly, the DA must address consistency with the provisions of the Conservation Element of the Comprehensive Plan.

29. The Growth and Environmental Management Department has also identified wetlands on-site. Wetlands are identified as preservation features in the Comprehensive Plan and must remain undeveloped. The DA agreement must be consistent with the provisions of the Conservation Element of the Comprehensive Plan.

It is the Planning Department's recommendation that the issue's noted above be addressed prior to scheduling the second and final public hearing on this agreement.

WT/cg

cc: Herb Thiele, Esq., County Attorney
Roxanne Manning, Land Use Division Manager, Planning Department
Cari L. Roth, Esq., Bryant Miller & Olive, P.A.

Table 1
Fallschase PUD/DRI Development Summary
(Completed by the Planning Department on 10/19/05)

Development Type	Intensity	PUD (Ord.73-64)	DRI (Resolution Dated 2/12/1974)	Vested Development**	Proposed DA
Residential	Dwelling Units	2,572	2,572	2,572	1,514
	Acres	342.2	342.2		378.4
Commercial	Square Feet	180,000*	180,000*		850,000
	Acres	25.4	25.4	25.4	103.6
Office	Square Feet	***425,000	***425,000	425,000	50,000
	Acres	29.4	29.4		(included with Commercial)

Notes:

- * PUD application entitles applicant to an additional 15,000 square feet of neighborhood commercial (3 areas with a maximum of 5,000 sf).
- ** Per vesting certification dated October 21, 1991. Additionally, the certification states "A final PUD must be filed and approved for subsequent phases and all development must meet the Environmental Management Act and land development regulations in place at that time."
- *** Based on best data available at time of construction of this document.

Board of County Commissioners
INTER-OFFICE MEMORANDUM

TO: Parwez Alam
County Administrator

FROM: David R. McDevitt
Development Services Director

DATE: October 19, 2005

SUBJECT: Proposed Fallschase 163 Agreement - Transportation and Traffic Related
Comments (10/13/05 Draft)

The Agreement proposes a development program for the Fallschase project that includes 850,000 sq. ft. of commercial, 50,000 sq. ft. of office and 1,514 dwelling units (757 single family and 757 multifamily/condominiums). The proposed development program represents an increase in commercial development from previous proposals, and a decrease in office and residential development from the thresholds established on the vesting certificate issued by the County for the project.

In support of the revised development program the applicant has provided a "Draft Traffic Assessment Memorandum for the Fallschase Development of Regional Impact" dated October 3, 2005. The traffic assessment provides a detailed analysis of the anticipated total p.m. peak hour trip generation associated with the proposed development program, and outlines proposed intersection improvements. Additionally, the assessment concludes that the development program proposed in the current Fallschase 163 Agreement will result in an anticipated p.m. peak hour trip generation total that is less than the total the County has historically attributed to the vested project.

Historically, the County has anticipated that the vested Fallschase Development of Regional Impact would generate approximately 3,600 p.m. peak hour trips at total project build out. The anticipated total trips were attributed to the unbuilt vested project for the purpose of roadway capacity reservation in the County's Concurrency Management System. The total trip number assigned to the vested project represents a generalized planning estimation that was based on the generalized development parameters outlined on the vesting certificate issued by the County for the project. The total trip number does not reflect any consideration for internal capture or passerby adjustment typical of a standard traffic impact analysis due to the lack of specificity in the project's approved PUD master plan, DRI, and subsequent vesting certificate. The lack of specificity in vested development entitlements associated with the Fallschase project has made the associated traffic impact analysis process problematic at best.

During the review process associated with the proposed Fallschase 163 Agreement, staff has requested on several occasions that the applicant provide a standard traffic impact analysis that

compares the vested development program for the project with the development program as reflected in the proposed Agreement. This would include generation, distribution, and assignment of the trips to the County's roadway network's for the development program reflected in the project's vesting certificate and the development program reflected in the proposed Agreement. However, the applicant has chosen instead to provide an analysis of the anticipated total p.m. peak hour trip generation for the proposed development program in an effort to demonstrate that the proposed project's total p.m. peak hour trip generation is equal to or less than the 3,600 trips that the County historically attributed to the project.

According to the applicant, the traffic analysis that is requested by the County in support of the proposed Agreement can not be completed, due primarily to disagreement with the County concerning the intensity of vested commercial development associated with the project. The Applicant takes the position that the proposed 850,000 sq. ft. of commercial is vested. The PUD generally discusses an 180,000 sq. ft. shopping center, 15,000 sq. ft. of convenience commercial, and a mixed use area that would allow some level of commercial development. The vesting certificate issued by the County for the Fallschase project established vesting for commercial development at 25.4 acres without assignment of a specific intensity in square feet.

Staff has taken the position that the 25.4 acres of vested commercial development is assumed to be equivalent to approximately 320,000 sq. ft. of commercial development for purposes of traffic generation and capacity reservation in the County's Concurrency Management System. This assumption is based on the 12,000 sq. ft./acre for vested, unbuilt commercial development as reflected in the County's adopted Concurrency Management Policies and Procedures Manual; and, includes the additional 15,000 sq. ft. of convenience commercial specifically noted in the approved PUD document. However, the applicant has taken the position that based on the development standards that were approved for the Fallschase PUD, the 25.4 acres of commercial is vested to be development at the intensity associated with C-1, Neighborhood Commercial Zoning. This zoning district which is outlined in the approved Fallschase PUD document allows for multi-story commercial development that could (theoretically) provide for the 850,000 sq. ft. of commercial development being proposed in the current Fallschase 163 Agreement, however, such intensity of use, at 33,465 sq. ft. per acre, is at least 3 times more intense than any comparable commercial development in the community.

Therefore, with the ongoing disagreement concerning the amount of vested commercial development associated with the approved Fallschase PUD/DRI, it appears that the applicant has chosen not to address staff's requests for the standard, professionally accepted traffic impact analysis in support of the proposed Agreement. The issue of vested commercial entitlements will need to be addressed by the Board before staff can finalize their comments and recommendations with regard to the proposed Agreements supporting traffic impact analysis.

Apart from the issue of vested commercial entitlements for the project, the applicant also needs to provide additional information and analysis beyond what was provided in the draft traffic assessment memorandum. Specifically, the memorandum provides only the first component of a standard traffic impact analysis. It does not provide any basis for the recommended intersection

improvements, or discuss the traffic operations aspects of the proposed intersections, both existing and proposed. Before staff can provide a final recommendation to the Board regarding the proposed Fallschase 163 Agreement, the supporting traffic impact analysis needs to be expanded to include the distribution and assignment of the project's anticipated p.m. peak hour trips to the County's roadway network. Additionally, the analysis should include the anticipated impact on the adopted levels of service for the impacted roadway segments, specifically those within the project's Primary Traffic Impact Network (three mile radius). The vested development program as reflected in the project's approved vesting certificate (425,000 sq. ft. office, 2571 dwelling units, and 25.4 acres of commercial) should be analyzed pursuant to the same methodology to determine the differences (if any) in the roadway segments anticipated to be impacted within the PTIN by the proposed project at build out. If the analysis indicates additional impact from the development program in the proposed Agreement, the applicant would be required to provide mitigation consistent with the County's Concurrency Management Ordinance and implementing Policies and Procedures Manual.

Please let me know if you require additional information or further clarification regarding my comments.

cc: Gary Johnson, Director, Growth and Environmental Management
Herbert W. A. Thiele, Esquire
Cari Roth, Esquire

BOARD OF COUNTY COMMISSIONERS

MEMORANDUM

DATE: October 18, 2005

TO: Parwez Alam, County Administrator

FROM: John Kraynak, Director of Environmental Compliance

SUBJECT: Comments on the Fallschase Development Agreement dated 10/13/05

The comments provided in this memo address the above referenced agreement and new exhibits. Since the agreement has changed over time, it is unknown whether previous negotiated changes to the Environmental Management Act (EMA) are still being considered. Therefore, the following comments address all of the issues with notations indicating where prior negotiated changes were agreed upon:

1. The past version of this agreement referenced 623 acres in Exhibit "A". The new agreement refers to 700 acres which appears to include the new acreage added to the DRI on July 12, 2005. This additional acreage was to meet all the EMA requirements. This should be restated in the agreement. It appears there may be some wetlands in this area they are proposing to convert to either recreational ponds or stormwater ponds which is a violation of the EMA.
2. Staff has not reviewed the 16 page boundary survey for accuracy. This is very lengthy, and very difficult to verify without a map delineating the metes and bounds. This may be reviewed easier by our surveyors in our Public Works Department. It may be possible to tie this with additional language in the agreement to a site plan map that we could agree on the DRI's general boundaries.
3. Page 6, Item 4. Staff's position has been that this development is not vested from the County's Land Development Regulations (LDRs). Therefore, to state that the County confirms that the "terms and conditions of development as set forth in this Agreement are consistent" with the LDRs appears inappropriate. It appears more appropriate to state that the conditions of this agreement have been agreed upon by the Board as a variance to the LDRs.
4. Page 7, Item 6(a). There are approximately 85 lots proposed in the floodplain that would be noncompliant with the Comp. Plan and LDRs which require the entire floodplain to be placed in conservation easement. The Comp. Plan and LDRs would allow 6 lots in the floodplain. The easement is required in the LDRs in Sec. 10-346(a)(2)a.2. The lots shown in Exhibit B.4 do not appear to meet the Lake Lafayette Special Development Zone (SDZ) standards in Sec. 10-192(g). The Zone A requirements provide for minimal disturbance in the floodplain to protect the water quality of Lake Lafayette. Another provision that requires a variance are the flood zone grade change restrictions which limit

disturbance in the floodplain in Sec. 10-207(3). In addition, the proposed lots violate Sec. 10-346(a)(3)i., which requires that newly proposed lots have sufficient buildable area outside environmental constraints. This provision requires a minimum half acre buildable area or the allowable zoning density outside the floodplain. This ensures that the structure is out of the floodplain and prevents future flooded property acquisition claims.

Staff is concerned with the placement of structures within the floodplain when it is not certain what the current floodplain elevation is at this time. The 51 foot floodplain was based on a flood event in the 1940s with much less impervious area than there is today. The additional impervious has more than likely raised the floodplain if that same storm event occurred today. Without volume control stormwater regulations, it is unknown if the proposed Fallschase impervious area will increase the floodplain above the perceived safe finished floor elevation. Without volume control stormwater regulations or a full build out floodplain analysis, the proposed homes could receive floodwater inside the structure. This is one of the many reasons why the LDRs steer development away from floodplains.

5. On Exhibit's "B.1" and "B.4", there are two new roads proposed in the altered floodplain to access the new lots on the filled fingers. These two roads are 3 to 5 feet below the floodplain. Compensating volume should be required for any new fill within the floodplain. This agreement should address the issue if additional fill is to be placed in the floodplain.
6. On Exhibit "B.4", there are several lots entirely within the floodplain on the two fingers that are 3 to 5 feet below the floodplain. The conceptual residential depiction proposed on Exhibit "B.5 does not match these lots entirely under floodplain unless fill is proposed. Again, compensating volume should be required for any new fill within the floodplain. This agreement should address the issue if additional fill is to be placed in the floodplain for these houses.
7. Stormwater treatment for the runoff from the 85 proposed floodplain lots on Exhibit "B.4" has not been adequately demonstrated. On Exhibit "B.5", there appears to be an underdrain system behind the retaining wall, but staff cannot determine if this is adequate to meet the required stormwater standard for the homes and new roads. This should be demonstrated before moving forward with the agreement due to this unique situation. Staff is concerned that approval of Exhibit "B.5" in the agreement may negate having to meet the stormwater standard due to a potential conflict. Additional language is needed to clarify that the stormwater standards must be met and may require changes to Exhibit's "B.4" and "B.5".
8. Exhibit B.5 shows the finished floor elevation two foot above the floodplain. This is not compliant with the current regulations requiring three feet above the floodplain. Again, it

is not recommended to allow homes in the floodplain for the reasons stated in Item 4 above. If the homes are allowed to be built in the floodplain, then a liability release form should be required that makes it clear to the property owner that they understand that their structure is in the floodplain and that they will not seek claims from Leon County in the future. There is an existing liability release form that was developed for existing platted lots that construct homes in the floodplain where there are basically have no reasonable alternatives.

9. Page 7, Item 6(c). This provision includes mowing a 100 foot strip beyond the proposed lot lines in the floodplain. This again violates several provisions of the floodplain and destroys the natural ecosystem surrounding the lake. Sec. 10-192(g)(1)b. requires a natural vegetation protection zone from the normal high water zone to protect this ecosystem. The natural vegetation provides hiding places for amphibians and other creatures that provide an ecosystem balance that helps protect the lake. Sec. 10-346(a)(2)a.2. requires an easement over the area and the vegetation to be maintained in a natural state. This provision also violates the Zone A protection requirements in Sec. 10-192(g).
10. Page 8, Item 7. It is extremely difficult to approve a Master Plan without a Natural Features Inventory (NFI). The impacts to sensitive features cannot be fully documented which makes approval of a Conceptual Site Plan difficult. One example of a serious problem that could result from allowing this is the proposed "Master Conceptual Plan" shows a wetland that is being proposed as a stormwater pond that directly discharges into Upper Lake Lafayette's karst feature (sinkhole). This would eliminate the pollution reduction provided by the wetland and add pollutants directly to the karst feature. The current EMA prevents using wetlands for stormwater and also prevents direct discharges to karst features. There is at least one other wetland that appears on the eastern edge of the property.
11. Page 9, Item 9. Comments on development standards in Exhibit "D" as follows:

III.A. Wetlands. There are other wetlands on the property outside the floodplain that should meet the requirements of the EMA. Staff has not had time to research the difference between the U.S. Army Corps of Engineers guidelines regarding wetland impacts and the EMA and recommends following mitigation guidelines in the EMA.

III.B. Topography/Slopes. The EMA protects all severe slopes and 50% of the significant slopes on site. This may provide greater protection of watercourses and ravines than is being proposed. It is unclear if the 25% preservation referenced is referring to slopes or the natural area requirements in the landscape portion of the code.

III.C. Archeological/Historical Resources. Staff recommends the language in the agreement "studied and coordinated" be replaced with "studied, coordinated and mitigated", and the rest of the language remain the same.

12. Page 9, Item 9. Comments on floodplain management in Exhibit "D" as follows:

III.G. Floodplain Management. **Staff cannot agree with this provision and strongly recommends that this provision be stricken from the agreement.** The agreement proposes 85 lots within the floodplain but is exempting those lots from standards for flood hazard protection. This would eliminate the provisions in Sec. 10-1722 requiring a flood letter by an engineer which establishes a safe finished floor elevation. This would eliminate Sec. 10-1736(j) which requires that these floodplain lot owners record a waiver releasing the County from any existing and future claims for any damages arising from the floodplain condition of the property. This is contrary to the Board direction to staff to develop and implement this standard which was adopted October 12, 2004. This would also eliminate the standards for flood hazard reduction in Sec. 10-1736. There are serious liability issues that should be further assessed by the County Attorney's Office if this provision is kept in Exhibit "D".

13. Page 9, Item 9. Comments on development standards regarding Landscaping in Exhibit "D" as follows:

IV. Landscape Area and Open Space Requirements: The LDRs require 25% of the developed site be dedicated to landscaping. Prior negotiations resulted in this being reduced to 15%.

V. Landscape Standards for Perimeter and Interior Landscape Areas. The interior landscape islands for parking lots is proposed to be only 25% of the requirements in the LDRs. This will result in wide expansive paved areas with no landscaping or shade creating heat sinks. This results in the depiction shown in Exhibit "B.2" for the commercial parking lot in the Conceptual site plan which can be aesthetically unpleasing. Staff recommends changing this to meet the LDRs since the landscaping has already been reduced to 15% and the natural area has been transferred down to the floodplain.

VII. Reforestation Requirements: The reforestation requirements are significantly less than the LDRs. The proposal is for one 3-inch tree replacement for every tree which equates to 2-credits versus a range of 8-40 credits. This is a reduction of 75% to 95% compared to the EMA depending on the tree size removed. Prior negotiations resulted in approving the 3-inch replacement for every tree 24 inches or greater.

VIII. Stormwater Management Facility Landscaping: The proposed landscape standards require that the stormwater ponds be available as credit for meeting the 15% landscaping requirements further reducing this requirement. The LDRs only allow this credit if the ponds are wet detention which blend in with the landscaping. It appears that the proposed ponds are dry filtration ponds which are not as aesthetically pleasing. Staff does not recommend this credit should be applied unless the facility is wet detention.

There is no minimum canopy coverage over parking spaces to prevent heat sinks. The

LDRs require 40% coverage. Staff recommends that at least a minimum of 20% be provided.

14. Page 12, Item 10(f). Staff disagrees with the submittal requirements. There is no Natural Features Inventory (NFI) as required by the LDRs and Comp Plan. The NFI is important to protect and mitigate sensitive features in accordance with the LDRs. There also is no Environmental Impact Analysis (EIA). The EIA could be combined with the Environmental Permit Application. The EIA is necessary to mitigate sensitive features and to demonstrate compliance with stormwater standards.
15. Page 13, Item 11.c. Staff disagrees with the submittal requirements. Staff recommends that the standard Environmental Permit Application be submitted to ensure compliance with the stormwater standards. The standard application has 10 pages of checklist items that ensure compliance with stormwater standards. There are many safety requirements such as minimum pond side slopes to prevent drowning accidents from occurring that are not included in the proposed list.
16. Page 14, Item 11(c)(4)d. The LDRs and State Department of Environmental Protection (FDEP) rules require 36 hours versus 72 hours for recovery for filtration. This is also conflicts with Exhibit "D", III.E. which references Sec. 10-191(b). This section already addresses recovery correctly. The recovery time is different for each method of treatment. Staff recommends deletion of this provision to eliminate confusion.
17. Page 15, Item 13. The last sentence refers to Section 10-192(g) which is the Lake Lafayette SDZ. This sentence exempts this development from meeting the SDZ requirements which is necessary to allow the 85 lots. As mentioned previously, staff does not recommend exemption of this provision and allowance of these lots.

It is extremely important and must be noted that this agreement is moving forward without Board of County Commission consideration of recommendations provided in the Lake Lafayette Study. Significant changes are recommended regarding stormwater requirements that could substantially affect the Fallschase development and the water quality of Upper Lake Lafayette. The Study recommends alternative stormwater regulations with the goal of no net increase in loadings similar to the Bradfordville standard. In addition, the study recommends modifying the existing stormwater regulations for all of Leon County by eliminating all forms of filtration. This is due to the fact that filtration is inefficient in removing nutrients created by new development. The proposed standard in this development agreement would utilize filtration. This is an important consideration in the Total Maximum Daily Load (TMDL) issues that our Public Works Department is currently working on. The elimination of filtration type ponds would protect Lake Lafayette from increased pollutant loadings, however, the stormwater pond size would increase which would affect the developable portion of the property.

cc: Herb Thiele
Gary Johnson
Cari Roth

Board of County Commissioners

INTEROFFICE MEMORANDUM

Attachment 5
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DATE: October 19, 2005
TO: Parwez Alam, County Administrator
FROM: Joseph L. Brown, III, P.E., Director of Engineering Services
SUBJECT: Fallschase Proposed 163 Agreement
Public Works' Comments

Conservation Easement Process provide for in Agreement is flawed.

Paragraph 6.(d) states that the Applicant will develop, execute and record the conservation easement and then deliver a copy to the County. I believe that proper procedure is that the easement is first approved by the Board before recording. If the property in question is to be allowed to be maintained and used for water quality purposes, there will need to be a Maintenance Plan included within or as a part of the Conservation Easement, and County staff need to participate in the development of that plan. If the property simply has a conservation easement laid on it, it could be worse than useless.

Typographic Error

In Paragraph 6(d), the last three words should either have a "period" added as the last word, or delete the "a".

PUD Amendment Review Process is flawed.

Paragraph 9(c) describes the review process for the PUD amendment. The obvious intent is to expedite the review process. As provided, though, it does not obligate the Applicant to respond to any of the questions or requests for information that staff might make. The Applicant has only to submit an application and, after staff review, the applicant has only to respond and the review is complete, regardless of the adequacy of the response. This does not provide for proper review and will probably result in delivery of documents to the DRC which staff will have to recommend for non-approval. DRC does not have the option to table, seek additional information, or anything else - they have to approve or deny.

Final Plat Review Process should not be included in this proposed Agreement

Paragraph 10. As stated previously, this should not refer to the Final Plat Process, which it would appear that it does by the choice of words. Normally, "Final Development Plans" include the preliminary plat. I think that that is what they are trying to address. But adding the word "plat" after "Final Development Plan" indicates a separate document, which can only be the final plat. The Final Plat does not go to DRC. It is developed by staff pursuant to the approved Final Development Plan and submitted by PW to the Board for approval. Final Plats must be correct per Florida Statutes, and the County Engineer and County Surveyor are attesting to that correctness when they sign the plat. There must be enough leeway in the review process to get it right - usually it takes a few submittal and review iterations to get it right.

Proposed Agreement requires approval of a road abandonment prior to Florida Statute required process.
Paragraph 18 still requires the County to approve the abandonment without option, which would not be in conformity with the statute intention governing this activity.

Installation of Unwarranted Signal Systems

Exhibit "E" provides that the Applicant will be allowed to install signal systems at two intersections without necessarily being in compliance with normal warrant requirements. One intersection is on Mahan which will be in FDOT jurisdiction, and one is on Buck Lake Road, in County jurisdiction. Execution of the agreement as written will authorize this signalization without further requirements. Installation of unwarranted signal systems may create a greater hazard for motorists.

Reconstruction of County Roads without established controls.

Exhibit "E" provides that the Applicant will be allowed to reconstruct Buck Lake Road, adding a turn lane at Mahan and extending the four lane section to a terminus point that suits the Applicant, without regard to other roadway capacity and operational issues. The Agreement does not provide for any of the customary controls over such construction, as in design review process, standards to be adhered to, inspection standards, warranties, maintenance, insurance, time of construction, etc.

Proposed Right of Way donation is insufficient.

Exhibit "E" provides that the Applicant will donate all needed right of way for Buck Lake Road from Mahan to the terminus of the proposed four lane extension by Applicant. From there to the end of the Fallschase property, Applicant proposes to donate only half. As written, it is staff's interpretation that that means only half of the right of way on the Fallschase side of Buck Lake Road. It is possible that the intent was to donate all of the right of way on the Fallschase side, and the reference to "Half" was to the fact that the other side of the road is not the Applicant's to donate, but it is not clear. Also, it is obvious in the Agreement that the Applicant does not intend to donate the roughly 2.5 acres of land near Davis Drive for the required stormwater facility for Buck Lake Road.

Proposed Median Opening between Mahan and Fallschase will interfere with safe and efficient roadway use.

Exhibits "E" and B.3. described the proposed relocation of an existing median cut between Fallschase Boulevard and Mahan. At the time that the median was originally installed it did not pose a problem traffic conditions existing at that time. Current plans for improvements to the Mahan intersection require that this median be closed to allow for storage at the signal and for efficient and safe traffic movement in the area. The proposal by the Applicant is not justified in any way by traffic design standards and should not be allowed. It can be safely projected that the accident history at such an intersection will quickly justify full signalization at County expense. The congestion of traffic to be expected when so many traffic signals are located so closely together will be quite bad. Installation of the proposed median opening will have impacts out into Mahan, which FDOT will have to deal with.

This segment of Buck Lake Road will become the main driving aisle for the Fallschase parking lot

The Fallschase developers have previously proposed changes and access locations on Buck Lake Road such that this segment of roadway will blend with the surrounding Fallschase development. The proposed improvements appear to be a continuation of that theme. It is to be expected that the parking areas for the retail and commercial development will front on Buck Lake Road, and with the excessive proposed access locations, Buck Lake Road will become, for all intents and purposes, the main driving aisle for the Fallschase development parking lots.

Transportation Improvements Required of Applicant may not be allowed

Applicant will be required to make improvements to Weems Road as a provision of the agreement (Exhibit "E"). Weems Road is in City jurisdiction, and the City is developing a reconstruction project for Weems

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Road. The City may not allow the proposed improvements, leaving Applicant with a contractual obligation that it cannot perform.

Proposed Conceptual Plan will invalidate prior platted properties in the development area.

The proposed Conceptual Plan (Exhibits B.1. and B.2.) propose major changes in the locations of roads, including existing Fallschase Boulevard, and lots such that any prior platting of properties in the development area will have to be replatted. The main entry into the residential area (Fallschase Boulevard) is being relocated, and the existing Fallschase Boulevard becomes an entrance into the shopping area.

Conceptual Plan not in conformance with Transportation Improvements

The Conceptual Plan does not indicate any intention to utilize the median cut between Fallschase Boulevard and Mahan which further suggests that it is not necessary.

Exhibit E.1. Contains obvious errors.

It is not clear whether the access arrows on this Exhibit binding or informational, and, if binding, to what degree. Note 2 says that turn lanes and signals will be based on Warrant Studies, which is acceptable, but does not if all of the access points and turn lanes are being set in stone by this agreement. Note that the plan now shows a connection to Weems Road which is in City of Tallahassee jurisdiction. Note that the access arrows shown at the entrance of Fallschase Boulevard are probably incorrectly located from the median opening between Fallschase and Mahan. Fallschase Boulevard is an existing full access point, but is labeled as right-in, right-out. If this arrow is relocated, they will probably want to add one across Buck Lake Road from Fallschase Boulevard.

cc: Herb Thiele, Esq., County Attorney
Tony Park P.E., Director of Public Works
Cari L. Roth, Esq., Bryany Miller & Olive, P.A.



GROWTH MANAGEMENT DEPARTMENT M E M O R A N D U M

TO: David McDevitt, Director of Development Services
Leon County Growth Management

FROM: Robert Herman, Growth Management Director

DATE: October 18, 2005

SUBJ: Fallschase 163 Agreement

Thank you for allowing City Growth Management staff to participate in the October 17, 2005 meeting on the proposed Fallschase 163 Agreement. City Growth Management staff has reviewed the draft agreement dated October 13, 2005 and would like to offer comments that are related to two primary issues: 1) traffic concurrency, and 2) the appropriateness of a 163 Agreement as the instrument for amending the existing DRI and PUD development plans.

In 1973, a Planned Unit Development (PUD) was approved for the Fallschase site and a Development of Regional Impact (DRI) was subsequently approved to authorize the development in 1974. Both the PUD and DRI documents reference allowable development as 180,000 square feet of commercial development, 850,000 square feet of office and 2,571 residential units (16 single-family, 163 cluster houses, 2,112 condominiums, and 280 multi-family units). The current development plan, as reflected in the proposed 163 Agreement, is for 850,000 square feet of commercial, 50,000 square feet of office, and 1,514 residential units (757 single-family dwellings and 757 multi-family/condominium units). The nature of the development plan as shown in the proposed 163 Agreement is substantially different than what appears to be authorized in the DRI and PUD. While there has been some question over the years about whether the project should be considered vested for 304,800 square feet of commercial development (based on the DRI reference to 25.4 acres of commercial and a zoning maximum of 12,000 square feet per acre), rather than the 180,000 square feet referenced in the project description section of the DRI and the PUD, there is no reference or implication in either the PUD or the DRI to the 850,000 square feet of commercial that is being requested.

The first area of concern noted by Growth Management staff relates to traffic impacts. To date, we have received a traffic analysis prepared by Moore Bass Consulting that demonstrates a very basic analysis that is based on a trip number that was used as a "place-holder" by Leon County staff for planning/vesting purposes, but it was never validated by Leon County staff to be used for any other purpose. It appears at this time that the developer has more detailed information available in relation to what is proposed and this information needs to be utilized to run the trip analysis. In addition to using the information for trip generation, the commercial and office uses should be broken down by location on the property to better represent the pass-by and internal capture, in addition to correctly calculating trips generated.

While it is critical to determine the impacts associated with the newly proposed development, it is also crucial that we determine what is vested for the original project so staff can compare the impacts in order to properly address any new impacts. At this time it is unclear what has been vested due to the reference to commercial activity on the vesting certificate being tied to acreage, rather than square feet. Once the vested commercial square footage is determined, a traffic analysis can then be performed on the vested traffic so that a true comparison between old and new development can be accomplished. The traffic analysis information is not limited to just the trip generation. It is important to note that the trip distribution patterns for both scenarios are just as critical for review, due to the enter and exit trip changes and trip patterns resulting from the different land uses and locations of the uses.

While the above relates to the need to properly address the generalized traffic analyses, it is also critical to perform traffic operation analyses at each impacted intersection within the Primary Transportation Impact Network. This should be done at this time, but it can be performed at a later date if all participants recognize that additional mitigation will probably be required.

The second area of concern identified by staff relates to using the 163 Agreement process to review and potentially authorize the proposed changes. It is City Growth Management's position that a 163 Agreement is not the appropriate tool for reviewing changes to an existing DRI or PUD. The process that has been used in the past for considering changes to a DRI is the Notice of Proposed Change (NOPC) review (as outlined in Chapter 380, F.S.), while PUD changes are reviewed through the PUD Amendment process. The NOPC process allows proposed changes to a DRI development order to be distributed for a coordinated review by the appropriate state, regional and local agencies so the local government has adequate information to make a formal determination about the proposed changes. Section 380.06(19) F.S. outlines the thresholds for determining whether a particular change to a DRI constitutes a substantial or a non-substantial deviation. Based on the proposed changes as outlined in the October 13, 2005 163 Agreement, it appears to City Growth Management staff that the changes constitute a substantial deviation. Regardless of whether one agrees or disagrees with City staff's assessment of the nature of the changes, it is important to note that 163 Agreements have traditionally been used to clarify infrastructure and/or mitigation requirements rather than serving as a substitute for the NOPC and/or PUD Amendment processes.

I appreciate the opportunity to provide comment on the proposed 163 Agreement and hope that the information provided above is helpful in the review process. Please contact me if you have any questions or if you'd like to discuss the comments in more detail.

CC: Ms. Anita Favors Thompson
Mr. Michael Wright
Mr. Jim English
Ms. Linda Hurst
Mr. Wayne Tedder
Mr. Olu Sawyer
Mr. Dwight Arnold
Mr. Tim Allen
Ms. Karen Jumonville

Planning Department
October 18, 2005

Mr. Herbert W.A. Thiele, County Attorney
County Attorney's Office
301 South Monroe Street, Suite 202
Leon County Courthouse
Tallahassee, Florida 32301

Re: Fallschase DRI - Tallahassee, FL
Review of the Draft Traffic Assessment

Dear Mr. Thiele:

We have received the September 28, 2005 DRAFT Traffic Assessment Memorandum for the Fallschase Development of Regional Impact (DRI). The Fallschase DRI is located in Tallahassee, Florida. In general, the Applicant's submittal is a draft document, and a final report has not been submitted to FDOT for formal review.

Based on our review of this draft document, we have the following comments:

General

- The Applicant has proposed changes to several components of the vested development: (1) significant revisions to the size and composition of commercial/office space and residential units, (2) changes in the proposed location of key land uses, the introduction of new proposed land use types, the use of additional land for development, and changes to access driveway locations and overall traffic patterns. It is the Department's position that the Applicant should re-evaluate the traffic impacts to the adjacent roadway system using standard transportation engineering and planning methodologies approved by the affected governmental agencies. As agreed with the Applicant several months ago, since the beginning of the NOPC process, the Department has yet to received a proposed methodology statement to address any land use changes.
- Until an agreement is reached between the Applicant and affected governmental agencies regarding the type and intensity of development which is considered vested, a formal review of submitted documentation cannot be accomplished by the FDOT.
- The submitted DRAFT Traffic Assessment is an incomplete document, which is missing standard traffic impact study content, and does not follow the common professional practice for recommending proposed traffic operational improvements.

Analysis

- The fitted curve equation for the General Office (ITE Code 710) is incorrect.
- The draft analysis reduces the total PM Peak Hour trips using an incorrect application of internal capture. A reduction in total trips cannot be assumed for the interaction of vehicle trips between the proposed development areas north and south of Buck Lake Road.
- The Applicant has not included the new proposed movie theatre in the calculation of estimated PM peak hour trips. This is a separate land use which has not been analyzed previously, and has different trip characteristics.
- The Applicant attempts to determine the maximum proposed development scenario allowed. Results of the Applicant's proposed development's trip generation results must be compared to that of the original vested development's trip generation results (using original land use categories and sizes). This comparative information has not been provided.
- According to Leon County staff, it is our understanding that the Applicant's use of 3,659 total trips to determine a maximum development scenario is not an official number to be used for local concurrency evaluation. Furthermore, common practice involves using the "net new external trips" (for both entering and exiting traffic), not "total" trips, to compare the Applicant's proposed development with the vested development. Using the vested development scenario provided by Leon County, the attached trip generation table indicates that the maximum allowable size of commercial use should be significantly less than proposed by the Applicant by approximately 300,000 square feet.
- The Applicant's proposed changes in the amount of commercial/office square footage and residential units results in a significant difference in the enter/exit vehicle split of the overall development. Therefore, the Applicant's proposed PM peak hour trip generation table, when compared to the net new external trips for the vested development, indicates an increase in the net new external "entering" trips of about 23 percent. Therefore, the development (as proposed by the Applicant) would be subject to a local concurrency determination evaluation.
- The implication that year 2007 corresponds to the buildout year of the proposed development is not reasonable. It is more reasonable to assume the project buildout year is at least 10 years from now. This assumption affects the calculation of pass-by trips in the Applicant's PM peak hour trip generation table and will also affect the type of roadway improvements that will be required adjacent to the project site at buildout.
- Proposed roadway and intersection geometric recommendations do not demonstrate that adopted Level of Service (LOS) requirements have been satisfied for the development at project buildout.

Information

- The FDOT has not been provided with sufficient information in the DRAFT Traffic Assessment to conduct a complete review of the proposed development's traffic impacts and suggested recommendations. The following information is missing and must be provided to conduct a complete review:
 1. Trip Generation for the original vested development land uses (used to compare with the proposed development scenario)
 2. Traffic distribution map. The Applicant should consider the revised traffic patterns and distribution appropriate for the proposed increases in commercial space and reductions in the office and residential uses.
 3. Level of Service (LOS) analyses supporting the Applicant's proposed recommended geometric improvements. The analyses must demonstrate that adopted LOS standards have been satisfied based on the projected buildout year.
- Further questions or reviews may be forthcoming based upon future responses or analysis submittals provided by the Applicant.

Concluding Remarks

Regardless of the project's vesting status, the Applicant is also required to submit appropriate documentation with supporting analyses to the FDOT for obtaining driveway connection and utility permits for the proposed development. A traffic signal warrant study will be required for each traffic signal proposed by the Applicant on the state highway system. Appropriate traffic operational analyses and recommendations must be submitted for review to the FDOT, signed and sealed by a qualified professional engineer licensed in the State of Florida.

In the event that changes to the development land uses affect the project's vesting status, the FDOT will require a revised methodology statement from the Applicant, identification of a larger study area, and subsequent traffic impact study analyses for roadway links and intersections, consistent with DRI requirements.

This concludes our review of the Applicant's DRAFT traffic study at this time. Upon further review of a final analyses and documentation, the FDOT may have additional questions regarding the proposed project. If you have any questions regarding this review, please call.

Sincerely,

Glenda Duncan
Growth Management Coordinator

Attachment

copies: Tommy Barfield
Craig Gavin
Richard Barr and Dave Muntean, Kimley-Horn and Associates, Inc.
Robert Downie, General Counsel